

ACT 541

ENERGY COMMISSION ACT, 1997

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ACT 541

ENERGY COMMISSION ACT, 1997¹

AN ACT to establish an Energy Commission; provide for its functions relating to the regulations, management, development and utilisation of energy resources, provide for the granting of licences for the transmission, wholesale supply, distribution and sale of electricity and natural gas, refining, storage, bulk distribution marketing and sale of petroleum products and to provide for related matters.

Establishment and Functions of Energy Commission

1. Establishment of the Commission

- (1) There is established by this Act an Energy Commission.

1. The Act was assented to on 31st December, 1997.

*Establishment and Functions of Energy Commission***1. Establishment of the Commission**

- (1) There is established by this Act an Energy Commission.
- (2) The Commission is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Commission may for the performance of its functions under this Act acquire and hold movable and immovable property, dispose of the property and enter into a contract or any other transaction.
- (4) Where there is a hindrance to the acquisition of property under subsection (3), the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125).

2. Object and functions of the Commission

- (1) The object of the Commission is to regulate and manage the utilisation of energy resources in the Republic and co-ordinate policies in relation to them.
- (2) Without prejudice to subsection (1), the Commission shall
 - (a) recommend national policies for the development and utilisation of indigenous energy resources;
 - (b) advise the Minister on national policies for the efficient economical and safe supply of electricity and natural gas, having due regard to the national economy;^{1b}
 - (c) prepare, review and update periodically indicative national plans to ensure that reasonable demands for energy are met;
 - (d) secure a comprehensive data base for national decision making on the extent of development and utilisation of energy resources available to the nation;
 - (e) receive and assess applications, and grant licences under this Act to public utilities for the transmission, wholesale supply distribution, and sale of electricity and natural gas;
 - (f) establish and enforce, in consultation with the Public Utilities Regulatory Commission, standards of performance for public utilities engaged in the transmission, wholesale supply, distribution and sale of electricity and natural gas;
 - (g) promote and ensure uniform rules of practice for the transmission, wholesale supply, distribution and sale of electricity and natural gas;
 - (h) – (j) *repealed*;^{1c}
 - (k) maintain a register of public utilities;^{1d}

1b. Substituted by section 83 of the National Petroleum Authority Act, 2005 (Act 691).

1c. Repealed by section 83 of Act 691.

1d. Substituted by section 83 of Act 691.

- (l) pursue and ensure strict compliance with this Act and the Regulations;
- (m) and perform any other function assigned to it under this Act or any other enactment.

3. Directions of the Minister

The Minister may, in the public interest, give to the Commission directions of a general character relating to the performance of the functions of the Commission.

4. The governing body of the Commission

- (1) The governing body of the Commission is a Board consisting of
 - (a) the chairman,
 - (b) one representative of the National Development Planning Commission,
 - (c) the executive secretary of the Commission appointed under section 45, and
 - (d) four other persons with knowledge in matters relevant to the functions of the Commission.

(2) The members of the Commission shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The President shall in making appointments under this section consider the knowledge, expertise and experience of the persons and in particular their knowledge in matters relevant to the functions of the Commission.

5. Tenure of office of members of the Board

(1) A member of the Board, other than the executive secretary shall be appointed for a period not exceeding five years and is eligible for re-appointment; but the members first appointed, the chairman and two other members shall hold office for a period of five years or two for a period of four years and one for a period of three years.

(2) A member of the Board may at any time by notice in writing to the President resign from office.

(3) A member who is absent from four consecutive meetings of the Board without sufficient cause ceases to be a member.

(4) The chairman of the Board shall notify the President of vacancies which occur in the membership of the Board within two months of the occurrence of the vacancy.

(5) The chairman or a member of the Board may be removed from office by the President for inability to perform the functions of office, for stated misbehaviour or for any other just cause.

6. Allowances to members

The chairman and the other members of the Board shall be paid the allowances determined by the Minister, in consultation with the Minister responsible for Finance.

7. Meetings of the Board

- (1) The Board shall meet at least once every two months for the dispatch of business at the times and in the places determined by the chairman.
- (2) The chairman shall, on the request of not less than three members, convene a special meeting of the Board.
- (3) The quorum at a meeting of the Board is five members including at least one member of the Board appointed under section 4 (1) (d).
- (4) The chairman shall preside at the meetings of the Board and in the absence of the chairman, a member of the Board elected by the members present from among their number shall preside.
- (5) Matters before the Board for determination shall be decided by a majority of the members present and voting.
- (6) The chairman or the person residing at a meeting of the Board shall in the event of equality of votes have a casting vote.
- (7) The Board may co-opt a person to act as an adviser at its meetings but a co-opted person shall not vote at the meeting.
- (8) Except as otherwise provided in this section, the Board shall regulate the procedure for its meetings.

8. Disclosure of interest

- (1) A member of the Board who has an interest in a contract proposed to be made with the Commission or a matter for discussion by the Board shall disclose the nature of the interest to the Board, and is disqualified, unless the meeting otherwise directs, from participating in the deliberations on that contract or matter and from voting on a decision on that contract or matter.
- (2) A member who fails to disclose interest under section (1) ceases to be a member of the Board.

9. Committees of the Board

The Board may for the performance of its functions appoint committees consisting of the members of the Board or non-members or both and may assign to a committee any of its functions as determined by the Board.

General Provisions on Licences

10. Application of sections 11 to 22

The general provisions on licences in sections 11 to 22 shall, unless otherwise provided in respect of a particular licence in this Act, apply to the licences that are granted under this Act.

11. Requirement for a licence

Except as expressly exempted under this Act, a person shall not, unless authorised to do so by a licence granted under this Act, engage in a business or a commercial activity for

- (a) the transmission, wholesale supply, distribution or sale of electricity or natural gas, or
- (b) *repealed.*^{1e}

12. Qualification for a licence

A licence under this Act may only be granted to

- (a) a citizen, or
- (b) a body corporate registered under the Companies Act, 1963 (Act 179) or under any other law of Ghana, or
- (c) a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152).

13. Application for a licence

(1) An application for a licence shall be made to the Commission and shall be in the form and be accompanied with the fee and documents determined by the Board.

(2) The Board shall,

- (a) within ten working days of the receipt of an application, acknowledge receipt, and
- (b) within a reasonable period after the ten days and in any event not more than six days after the ten days, inform the applicant in writing of the decision of the Board.

14. Grant of a licence

Subject to this Act, an application under section 13 shall be granted by the Commission unless there are compelling reasons founded on technical data, national security, public safety or any other reasonable justification which shall be communicated to the applicant.

15. Conditions of a licence

(1) A licence granted by the Commission is subject to the conditions specified in the licence considering the functions of the Commission and the nature of the licence required.

(2) Without prejudice to subsection (1), a licence granted under this Act may include conditions requiring the licensee

- (a) where applicable, to interconnect its facilities and installations to the transmission systems to which the licence relates, and
- (b) to provide to the Commission, in the manner and at the times as may be reasonably required, the documents, accounts, estimates, returns or any

1e. Repealed by section 86 of Act 691.

other information that the Board may require for the purpose of performing the functions conferred on the Commission under this Act.

16. Non-transferability of a licence

A licence granted under this Act is not transferable except with the prior written approval of the Board.

17. Duration and renewal of a licence

(1) A licence granted under this Act is for the period specified in it and may be renewed.

(2) An application for the renewal of a licence shall be made to the Commission not later than sixty days before the expiry of the licence desired to be renewed.

(3) The procedure for the renewal of a licence granted under this Act shall be the same as that applicable to the grant of the original licence.

(4) A licensee who fails to renew the licence or whose application for the renewal is rejected by the Board shall cease to provide the services to which the licence relates.

18. Power to modify a licence

(1) The Board may, subject to this Act and the Regulations, modify a licence granted under this Act if the modification is permissible under the terms of the licence or is required in the public interest.

(2) A modification shall not be made under subsection (1), unless the Board has given at least sixty working days written notice

(a) stating that the Board proposes to make the modification, and

(b) setting out the effect of the modification.

(3) The Board shall consider the representations or objections that are made to it before the modification is made.

(4) A notice under subsection (2) shall be given by publication in the manner that the Board considers appropriate for the purposes of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and by sending a copy of the notice to the licensee.

(5) The expense incurred or damage caused as a result of a modification to a licence made under subsection (1) shall be considered as part of the capital expenditure of the licensee.

19. Suspension or cancellation of a licence

(1) The Board may, where it is satisfied that a licensee is not complying with or has not complied with any of the conditions of the licence suspend or cancel the licence.

(2) A suspension or cancellation shall not be made under subsection (1) unless the Board has given the licensee

(a) a written notice specifying in it the cause of dissatisfaction of the Board, and

(b) the directions for the rectification of the breach, and

- (c) the action proposed to be taken by the Board in the event of non-compliance with the notice.

(3) The Board shall not suspend or cancel a licence granted under this Act without first giving the licensee an opportunity of being heard and shall where considered appropriate, give a period that the Board considers reasonable for the compliance with the directions of the Board.

(4) In determining whether it is necessary to suspend or cancel a licence granted under this Act, the Board shall consider the extent to which a person is likely to sustain loss or damage as a result of the suspension or cancellation.

(5) A licence which is not utilised within one year from the date of its grant may be cancelled by the Board after notice of not less than thirty days has been served on the licensee.

20. Complaint to the Minister

(1) A person aggrieved by the refusal of the Commission to grant or renew the licence under this Act or by a modification, suspension or cancellation of a licence granted under this Act may lodge a complaint with the Minister who shall within thirty days of receipt of the complaint make a decision on it.

(2) A person dissatisfied with the decision of the Minister or where the thirty days expires without a decision may pursue the matter in the Court.

21. Settlement of disputes by arbitration

The Board shall at the request of a person licensed under this Act set up an arbitration panel under the Arbitration Act, 1961 (Act 38) to arbitrate and settle a dispute arising between licensees where the parties cannot reach an agreement.

22. Gazette publication of licences

The Board shall publish in the *Gazette* and in any other newspapers of national circulation as determined by the Board, notice of every licence, modification, suspension or cancellation of a licence made under this Act; but the publication of a modification, suspension or cancellation of a licence shall not be made where an objection a complaint or an action has been lodged or initiated with the Commission or the Minister or in the Court.

Transmission, Wholesale Supply and Distribution of Electricity and Natural Gas

23. Interconnected transmission systems and transmission licence

(1) The national interconnected transmission system for the delivery of electricity and natural gas throughout the country shall be as determined by the Board.

(2) Subject to subsection (3), the Commission may, on an application made to it by a public utility in the form determined by the Board, grant a transmission licence to the applicant authorising the licensee to operate exclusively the national interconnected transmission systems for the transmission throughout the country of electricity or natural gas.

(3) A licence granted under subsection (1) shall be known as a transmission licence.

(4) Only one licence shall be granted under subsection (1) in respect of electricity or natural gas at a particular time in the country.

(5) The public utility granted a transmission licence under subsection (1) for transmission of electricity or natural gas shall be known as the Electricity Transmission Utility or the Gas Transmission Utility respectively.

24. Conditions for a transmission licence

(1) A transmission licence is subject to the conditions determined by the Board and shall include

- (a) conditions for the safe, reliable economic dispatch and operation of the national interconnected systems for the transmission of electricity and natural gas without discrimination to a wholesale supplier of electricity or natural gas licensed under this Act, and
- (b) conditions that tariffs to be charged by the licensee for its services are subject to the approval of the Public Utilities Regulatory Commission.

(2) A Transmission Utility shall, within six months of being granted a transmission licence, establish and make available to the public at its offices,

- (a) the procedure for obtaining and terminating transmission and interconnection services for electricity or natural gas,
- (b) the method of response to a request for its services, and
- (c) maps and diagrams of its electricity or natural gas transmission facilities in the country.

(3) A Transmission Utility shall provide in respect of its capital expenditure programme the information requested by the Board.

25. Wholesale supply licence for electricity and natural gas

(1) The Commission may on an application by a public utility in the form determined by the Board grant the public utility a wholesale supply licence to operate facilities and installations for the wholesale supply of electricity or natural gas.

(2) A public utility licensed under subsection (1) is authorised by the licence to produce electricity or natural gas for supply to

- (a) distribution companies, and
- (b) bulk customers.

(3) A wholesale supply licence shall not be granted under this section unless the Board is satisfied that the grant will promote the sale, and the reliable and economic operation of the interconnected transmission systems in the country.

(4) A wholesale supply licence may be granted subject to any other conditions specified in relation to it and shall include

- (a) the location of the wholesale supply facilities or stations,
- (b) the duration of the licence, and
- (c) a condition that charges for its services to distribution companies are subject to the approval of the Public Utilities Regulatory Commission.

26. Licence for distribution and sale of electricity and natural gas

(1) The Commission may on an application by a public utility, grant to the public utility a licence to

- (a) distribute and sell electricity, or
- (b) distribute and sell natural gas

without discrimination in the areas or zones designated and specified in the licence.

(2) A licence granted under subsection (1) shall be on the conditions determined by the Board and shall include a condition that the rates or charges for its services are subject to the approval of the Public Utilities Regulatory Commission.

(3) The Commission shall, in granting a licence under subsection (1), take into account

- (a) the demand and supply of electricity or natural gas in the designated area or zone,
- (b) the capability to interconnect distribution facilities or installations with transmission systems in the designated area or zone, and
- (c) the ability to fulfil the obligation to provide electricity or natural gas within the designated area or zone.

(4) A public utility licensed under subsection (1) to distribute electricity or natural gas shall make available to the public for inspection at its offices diagrams and maps of the electricity or gas facilities authorised by the Commission to be operated in the designated area or zone relevant to its licence.

27. Standards of performance for electricity and natural gas public utilities

(1) The Board in consultation with the Public Utilities Regulatory Commission shall, by legislative instrument, prescribe standards of performance for the supply, distribution and sale of electricity or natural gas to consumers by licensed public utilities.

(2) The standards of performance shall

- (a) in respect of electricity include matters relating to
 - (i) voltage stability,
 - (ii) maximum number of scheduled and unscheduled outages,
 - (iii) number and duration of load shedding periods, and
 - (iv) metering;
- (b) in respect of natural gas include matters relating to
 - (i) gas pressure,
 - (ii) number of scheduled and unscheduled interruptions in supply,
 - (iii) gas quality, and
 - (iv) metering.

(3) Where a licensee fails to meet a required standard of performance, it may in addition to a penalty provided under this Act or any other enactment be required to pay the compensation determined by the Board to a person adversely affected as a result of the failure.

- (4) The requirement for payment of compensation under this section
- (a) does not limit the right to any other remedy at law which is available to the complainant, and
 - (b) does not preclude the Commission from taking any other measure that the Commission has a right to impose in respect of the act or omission that constitutes the failure.

28. Rules of practice for electricity and natural gas public utilities

The Commission shall, by legislative instrument, prescribe technical and operational rules of practice for electricity and natural gas public utilities licensed under this Act and shall apply and enforce the provisions uniformly throughout the country.

29. Electricity and Natural Gas Technical Committee

(1) Without prejudice to section 9, there is hereby established a technical committee to be known as the Electricity and Natural Gas Technical Committee.

(2) The Technical Committee shall oversee the development, implementation and monitoring of the rules provided for under section 28.

(3) The Technical Committee

- (a) shall be composed of the members determined by the Board, and
- (b) shall have sub-committees with responsibility for electricity and gas respectively.

30. Exemption

The Volta River Authority established under the Volta River Act, 1961 (Act 46) is exempted from the requirement for a licence to produce and supply wholesale electricity from the hydropower installations on the Volta River Basin.

Special Provisions relating to Petroleum Products

31 to 40. Repealed.^{1f}

Energy Fund

41. Establishment of the Energy Fund

- (1) There is established by this Act a fund to be known as the Energy Fund.
- (2) The sources of money for the Fund are
 - (a) the proportion of Government levy on petroleum products, electricity and natural gas determined by the Cabinet and approved by Parliament,
 - (b) money that accrues to the Commission in the performance of its functions, and
 - (c) grants.

^{1f} Repealed by section 83 of Act 691.

42. Objectives of the Fund

Moneys of the Fund shall be applied for

- (a) promotion of energy efficiency and productive uses of electricity and natural gas^{1g},
- (c) human resource development in the energy sector, and
- (b) promotion of projects for the development and utilisation of renewable energy resources, including solar energy;
- (d) any other relevant purposes determined by the Board.

43. Management of the Fund

(1) The Fund shall be administered by the Board which shall for that purpose include the Controller and Accountant-General or the representative of the Controller and Accountant-General.

(2) The moneys for the Fund shall be paid into a bank account for the purpose opened by the Commission with the approval of the Controller and Accountant-General.

(3) The provisions under sections 49 and 50 on accounts and audit and annual report apply to the Fund.

44. Functions of the Commission in respect of the Fund

(1) The Board shall, for the purposes of administering the Fund,

- (a) formulate policies to generate money for the Fund,
- (b) determine the allocations to be made towards the objectives of the Fund, and
- (c) determine annual targets of the Fund.

(2) The Board may invest a part of the moneys in the Fund that it considers appropriate in the manner approved by the Minister in consultation with the Minister responsible for Finance.

(3) The payments issued from the Fund shall be signed by the chairman and the executive secretary of the Commission except that this shall be on the approval by the Minister of a budget presented by the Commission or the chairman and one other member of the Board.^{1h}

Administration, Financial and Miscellaneous Provisions

45. Executive secretary

(1) The Commission shall have an executive secretary who shall be appointed by the President in accordance with article 195 of the Constitution.

(2) The executive secretary shall hold office on the terms and conditions specified in the letter of appointment.

1g. Substituted by section 83 of Act 691.

1h. Amended by section 83 of Act 691.

(3) Subject to the general directives that the Board may give, the executive secretary is responsible for the day to day administration of the affairs of the Commission and for ensuring the implementation of the decisions of the Board.

(4) The executive secretary is responsible for the organisation of the Commission.

(5) The executive secretary may delegate the day to day administration of the affairs of the Commission to an officer, but the executive secretary is not relieved from ultimate responsibility for the performance of a delegated function.

46. Other staff of Commission

(1) The President may, in accordance with article 195 of the Constitution, appoint officers and employees as are necessary for the effective performance of the functions of the Commission.

(2) The President may delegate the powers of appointment of public officers in accordance with article 195 (2) of the Constitution.

(3) Other public officers may be transferred or seconded to the Commission.

47. Engagement of consultants

The Commission may engage the services of the consultants and advisers that the Board considers necessary for the effective performance of the functions of the Commission.

48. Expenses of the Commission

Parliament shall annually provide to the Commission the moneys that are necessary for the efficient performance of the functions of the Commission.

49. Accounts and audit

(1) The Commission shall keep books of accounts and proper records in relation to them in the form approved by the Auditor-General.

(2) The Auditor-General shall, within three months after the end of each financial year, audit the books of accounts of the Commission.

(3) The financial year of the Commission shall be the same as the financial year of the Government.

50. Annual report

(1) The chairman of the Board shall, as soon as possible after the end of each financial year but within six months after the end of the year, submit to the Minister an annual report dealing generally with the activities and the operations of the Commission in respect of the preceding year.

(2) The annual report shall include

(a) a copy of the audited accounts of the Commission together with the Auditor-General's report on them, and

(b) any other information required by the Minister.

(3) The Minister shall, within two months after receiving the annual report of the Commission, submit the report to Parliament with a statement the Minister considers necessary.

(4) The Commission shall also submit to the Minister any other reports on its activities as requested in writing by the Minister.

51. Register of licences

(1) The Commission shall keep a register in the form determined by the Board and shall record in it

- (a) the licences issued under this Act and the relevant terms and conditions,
- (b) the suspensions and cancellation of licences, and
- (c) such other information relating to public utilities.¹¹

(2) Where it appears to the Board that the entry of a condition in the register would be contrary to the public interest or the commercial interest of a person, the Board may decide not to enter that condition in the register.

(3) The register shall be open for public inspection during normal office hours and subject to the payment of the fee determined by the Board.

(4) A person may, on payment of the fee determined by the Board request the Commission to supply an extract from a part of the register.

52. Inspectorate

(1) For the purposes of giving effect to this Act, the Board shall establish an inspectorate division of the Commission.

(2) The Board may in writing appoint a chief inspector and any other inspectors to perform the functions determined by the Board for the purpose of enforcing this Act and the Regulations.

(3) An inspector appointed under this Act may at a reasonable time enter any premises which the inspector reasonably suspects to be used for a purpose to which this Act applies to inspect the premises or generally to perform any of the functions imposed on the inspector under this Act or to ensure that the provisions of this Act are complied with.

53. Relationship with other authorities

Government departments and agencies and public authorities shall co-operate fully with the Commission in the performance of its functions under this Act.

54. Offences and penalties

(1) A person who

- (a) installs or operates a facility for the transmission wholesale supply, distribution or sale of electricity or natural gas without a licence from the Commission as provided for under this Act, or

¹¹ Substituted by section 83 of Act 691.

- (b) *repealed*^l
- (c) unlawfully destroys or damages an equipment, installation or a facility for the supply, transmission, distribution or sale of electricity or natural gas, or
- (d) *repealed*^m
- (e) fails to comply with a standard of performance prescribed by the Commission,

commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units or to a term of imprisonment not less than one year or to both the fine and the imprisonment on first conviction, and to a fine of not less than five hundred penalty units or to a term of imprisonment not less than two years or to both that fine and imprisonment on a subsequent conviction.

(2) Where an offence created under this Act or the Regulations, is committed by a body corporate or by a member of a partnership or other firm, every director or officer of that body corporate or a member of the partnership or any other person concerned with the management of the firm shall be deemed to have committed that offence and is liable on conviction, to a fine of not more than five hundred penalty units for the offence and is in addition liable to the payment of compensation for the damage resulting from the breach to the satisfaction of the Court.

(3) A person shall not be convicted of an offence by virtue of subsection (2) if it is proved

- (a) that due diligence was exercised to secure compliance with the provisions of this Act, and
- (b) that the offence was committed without the knowledge, consent or connivance of that person.

(4) Where an offence is committed under subsection (1) (a) or (b) the Court may order the forfeiture of the equipment, installation or facility used in the commission of the offence to the State.

55. Ministerial responsibility

The Minister responsible for Energy has ministerial responsibility for the Commission.

56. Regulations

(1) The Minister, on the advice of the Board may, by legislative instrument, make Regulations

- (a) in respect of electricity and natural gas,
 - (i) on the conservation of electricity or natural gas,
 - (ii) for expansion, planning, safety criteria, reliability and cost effectiveness of the interconnected transmission systems,

l. Repealed by section 83 of Act 691.

m. Repealed by section 83 of Act 691.

- (iii) on minimum standards and procedures for constructions, operation and maintenance of facilities and installations,
 - (iv) for the protection of mains, pipes, electrical or natural gas installations and services,
 - (v) for the protection of life and property and general safety of the public in respect of natural gas and electricity services,
 - (vi) for the operation of the electricity transmission utility, and
 - (vii) for the operation of the gas transmission utility;
- (b) *repealed*,¹ⁿ
- (c) generally,
- (i) prescribing fire precautions and any other safety measures to be observed,
 - (ii) on the minimum reserve margins to satisfy demand, and
 - (iii) for the implementation of this Act.

(2) Despite a provision in the Statutory Instrument Act, 1959 (No. 52) to the contrary, a legislative instrument made under subsection (1) may impose a penalty of a fine not exceeding one thousand penalty units or a term of imprisonment not exceeding five years or both that fine and that imprisonment.

57. Interpretation^{1o}

In this Act, unless the context otherwise requires,

“Auditor-General” includes an auditor appointed by the Auditor-General;

“bulk customer” means a customer that purchases or receives electric power, or natural gas of such amount or level as the Commissioner may specify;^{1p}

“citizen” means a citizen of Ghana;

“Commission” means the Energy Commission established under section 1;

“consumer” means a person or the successor in interest that purchases or receives electric power or natural gas for consumption and not for delivery or resale to others, including a person that owns or occupies premises where electric power or natural gas is supplied;

“Court” means a court of competent jurisdiction;

1n. Repealed by section 86 of Act 691.

1o. Amended by section 86 of Act 691 by deleting the definitions of “crude oil”, “hydrocarbon fuels”, “lubricants”, “petroleum” and “petroleum products”. The definitions read as follows:

“crude oil” includes hydrocarbons which are solid or liquid under normal atmospheric conditions and condensates and distillates obtained from natural gas;

“hydrocarbon fuels” means natural gas or a petroleum product derived from crude oil by a refining treatment process;

“lubricants” means liquid lubricating oils and greases produced from petroleum and categories as mineral or synthetic oil for engineering applications but does not include petroleum jelly or wax;

“petroleum” means crude oil or natural gas or a combination of both;

“petroleum products” means liquid or gaseous fuel and lubricant derived from crude oil;

1p. Substituted by section 83 of Act 691.

"distribution company" means a person licensed under this Act to distribute and sell electricity or natural gas without discrimination to consumers in an area or zone designated by the Board;

"energy resources" includes hydropower, solar, biomass, wind and geothermal hydrocarbon;

"function" includes powers and duties;

"gas" means natural gas;

"interconnection service" means the safe reliable connection of one person's electrical or natural gas facilities to another person's electrical or natural gas facility with due consideration for

- (a) the facilities necessary to accommodate the connection,
- (b) the co-ordinated operation of the connected systems, and
- (c) the economic impact of the connection on the connected systems;

"Minister" means the Minister responsible for Energy;

"natural gas" includes the hydrocarbon fuels which are gaseous under normal atmospheric conditions and wet gas, dry gas and residue after the extraction of liquid hydrocarbon fuels from wet gas;

"public utility" means a person licensed under this Act to provide transmission and interconnection services for electricity or natural gas without discrimination throughout the country or a person licensed under this Act to distribute and sell electricity or natural gas without discrimination to consumers in an area or zone designated by the Board;

"Regulations" means Regulations made under this Act;

"Technical Committee" means the Electricity and Natural Gas Technical Committee established under section 29;

"transmission service" means the safe and reliable operation of high pressure gas pipeline and compression systems to ensure the cost effective dispatch and movement of electricity or natural gas from the facilities of wholesale suppliers to bulk customers or distribution companies;

"Transmitting Utility" means the Electricity Transmission Utility or the Gas Transmission Utility provided for under section 23;

"wholesale supplier" means a person licensed under this Act to install and operate facilities to procure or produce for sale to bulk customers or to a distribution company for distribution and sale to consumers.

58. Dissolution of National Energy Board and vesting of assets

*Spent.*²

2. The section provided that:

- (1) The National Energy Board established under the National Energy Board Law, 1983 (P.N.D.C.L.) is hereby dissolved.
- (2) The assets, rights, obligations and liabilities of the National Energy Board are hereby transferred and vested in the Commission."

Repeal, transitional and savings provisions

*Spent.*³

The section provided that:

- "(1) The following enactments are hereby repealed:
- Petroleum Decree, 1973 (N.R.C.D. 187);
 - Petroleum Decree, 1973 (Amendment) Act, 1980 (Act 420);
 - Petroleum Decree, (Amendment) (No. 2) Act, 1980 (Act 427);
 - National Energy Board Law, 1983 (P.N.D.C.L. 62);
 - Excess Energy Consumption (Surcharges) Law, 1984 (P.N.D.C.L. 87);
 - National Energy Board (Amendment) Law, 1987 (P.N.D.C.L. 190);
 - Electricity Corporation of Ghana Decree, 1967 (N.L.C.D. 125);
 - Electricity Corporation of Ghana (Amendment) Law, 1987 (P.N.D.C.L. 172); and
 - Electricity Corporation of Ghana (Amendment) Law, 1991 (P.N.D.C.L. 250).
- (2) Notwithstanding the repeal of the enactments specified in subsection (1) the Petroleum Regulations, 1959 (L.N. 206), the Safety (Petroleum Rules), 1959 (L.N. 207) and the Electricity Corporation of Ghana (Electric Power) Regulations, 1988 (L.I. 1366) shall continue in force until revoked or otherwise dealt with under this Act.
- (3) Notwithstanding the repeal of the National Energy Board Law, 1983 (P.N.D.C.L. 62) any appointment made under it and valid on the coming into force of this Act shall remain valid as if made under the corresponding provision of this Act until terminated or otherwise dealt with under this Act.
- (4) Any person who on the date of the coming into force of this Act holds a valid licence for the supply of electricity, natural gas or petroleum products or by law operates any service for the provision of electricity, natural gas or petroleum products shall, where he intends to continue to operate the service apply within 6 months of the coming into force of this Act for the appropriate licence under this Act; and shall unless authorised under this Act cease the operations after the expiry of the 6 months period."

"energy resources" includes hydropower, solar, biomass, wind and geothermal hydrocarbon;

"function" includes powers and duties;

"hydrocarbon fuels" means natural gas or a petroleum product derived from crude oil by a refining treatment process;

"gas" means natural gas;

"interconnection service" means the safe reliable connection of one person's electrical or natural gas facilities to another person's electrical or natural gas facilities with due consideration for

- (a) the facilities necessary to accommodate the connection,
- (b) the co-ordinated operation of the connected systems, and
- (c) the economic impact of the connection on the connected systems;

"lubricants" means liquid lubricating oils and greases produced from petroleum and categories as mineral or synthetic oil for engineering applications but does not include petroleum jelly or wax;

"Minister" means the Minister responsible for Energy;

"natural gas" includes the hydrocarbon fuels which are gaseous under normal atmospheric conditions and wet gas, dry gas and residue after the extraction of liquid hydrocarbon fuels from wet gas;

"petroleum" means crude oil or natural gas or a combination of both;

"petroleum products" means liquid or gaseous fuel and lubricant derived from crude oil;

"public utility" means a person licensed under this Act to provide transmission and interconnection services for electricity or natural gas without discrimination throughout the country or a person licensed under this Act to distribute and sell electricity or natural gas without discrimination to consumers in an area or zone designated by the Board;

"Regulations" means Regulations made under this Act;

"Technical Committee" means the Electricity and Natural Gas Technical Committee established under section 29;

"transmission service" means the safe and reliable operation of high pressure gas pipeline and compression systems to ensure the cost effective dispatch and movement of electricity or natural gas from the facilities of wholesale suppliers to bulk customers or distribution companies;

"Transmitting Utility" means the Electricity Transmission Utility or the Gas Transmission Utility provided for under section 23;

"wholesale supplier" means a person licensed under this Act to install and operate facilities to procure or produce for sale to bulk customers or to a distribution company for distribution and sale to consumers.

58. Dissolution of Natural Energy Board and vesting of assets

*Spent.*²

59. Repeal, transitional and savings provisions

*Spent.*³

2. The section provided that:

- “(1) The National Energy Board established under the National Energy Board Law, 1983 (P.N.D.C.L. 62) is hereby dissolved.
- (2) The assets, rights, obligations and liabilities of the National Energy Board are hereby transferred to and vested in the Commission.”

3. The section provided that:

- “(1) The following enactments are hereby repealed:
- Petroleum Decree, 1973 (N.R.C.D. 187);
 - Petroleum Decree, 1973 (Amendment) Act, 1980 (Act 420);
 - Petroleum Decree, (Amendment) (No. 2) Act, 1980 (Act 427);
 - National Energy Board Law, 1983 (P.N.D.C.L. 62);
 - Excess Energy Consumption (Surcharges) Law, 1984 (P.N.D.C.L. 87);
 - National Energy Board (Amendment) Law, 1987 (P.N.D.C.L. 190);
 - Electricity Corporation of Ghana Decree, 1967 (N.L.C.D. 125);
 - Electricity Corporation of Ghana (Amendment) Law, 1987 (P.N.D.C.L. 172); and
 - Electricity Corporation of Ghana (Amendment) Law, 1991 (P.N.D.C.L. 250).
- (2) Notwithstanding the repeal of the enactments specified in subsection (1) the Petroleum Regulations, 1959 (L.N. 206), the Safety (Petroleum Rules), 1959 (L.N. 207) and the Electricity Corporation of Ghana (Electric Power) Regulations, 1988 (L.I. 1366) shall continue in force until revoked or otherwise dealt with under this Act.
- (3) Notwithstanding the repeal of the National Energy Board Law, 1983 (P.N.D.C.L. 62) any appointment made under it and valid on the coming into force of this Act shall remain valid as if made under the corresponding provision of this Act until terminated or otherwise dealt with under this Act.
- (4) Any person who on the date of the coming into force of this Act holds a valid licence for the supply of electricity, natural gas or petroleum products or by law operates any service for the provision of electricity, natural gas or petroleum products shall, where he intends to continue to operate the service apply within 6 months of the coming into force of this Act for the appropriate licence under this Act; and shall unless authorised under this Act cease the operations after the expiry of the 6 months period.”

ENERGY COMMISSION (AMENDMENT) Act 933
ACT, 2016

ARRANGEMENT OF SECTIONS

Section

1. Section 2 of Act 541 amended
2. Section 56 of Act 541 amended
3. Section 57 of Act 541 amended



THE NINE HUNDRED AND THIRTY-THIRD

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

ENERGY COMMISSION (AMENDMENT) ACT, 2016

AN ACT to amend the Energy Commission Act, 1997 (Act 541) to incorporate provisions on local content and local participation in relation to the energy supply industry and for related matters.

DATE OF ASSENT: *16th December, 2016.*

PASSED by Parliament and assented to by the President:

Section 2 of Act 541 amended

1. The Energy Commission Act, 1997 (Act 541) referred to in this Act as the principal enactment is amended in section 2 by the insertion after paragraph (g) of subsection (2) of

“(ga) promote local content and local participation in the supply, transmission, distribution and sale of electricity and natural gas and the provision of allied services to support national development.”

Section 42 of Act 541 amended

2. Section 42 of the principal enactment is amended

(a) by the insertion after paragraph (c) of

“(ca) promotion of local content and local participation in the energy sector”; and

(b) by the substitution for paragraph (d) of

“(d) such other related purposes and expenses as may be determined by the Commission

Section 56 of Act 541 amended

3. The principal enactment is amended in section 56 by the insertion after subparagraph (vii) of paragraph (a) of

“(viii) for the promotion of local content and local participation to support national development.”

Section 57 of Act 541 amended

4. The principal enactment is amended in section 57 by the insertion after the definition of “interconnection service” of

““local content” means the percentage of utilisation of Ghanaian human and material resources, services and businesses, in monetary terms, for the systematic development of national capacity and capabilities for the enhancement of the Ghanaian economy;

“local participation” means the percentage of local equity ownership in a sector or industry;”.

Date of *Gazette* notification: 16th December, 2016.